

UNITED STATES OF AMERICA )  
 )  
 v. ) Criminal No. 01-455-A  
 )  
 ZACARIAS MOUSSAOUI, )

At a hearing on April 22, 2002, the defendant made an oral motion to dismiss court-appointed counsel and to proceed *pro se*. (Tr. pp. 3-4). The Court held the motion in abeyance pending a psychiatric evaluation to determine whether Mr. Moussaoui's *pro se* request was knowing, intelligent and voluntary. (Tr. 54-57). As a result, in this interim period, Mr. Moussaoui remains represented by counsel of record. Under the Court's order, those counsel have a continuing obligation to prepare the case, and to file motions and other documents according to the schedule set by this Court.<sup>1</sup>

<sup>1</sup> See April 22, 2002 Order (“Because the Court has not yet determined whether defendant is competent to waive his right to counsel, his current, court-appointed lawyers will continue to represent him. All deadlines previously set by the Court for the filing of pleadings as well as the May 31, 2002 deadline announced in court for the submission of proposed questions for the juror questionnaire remain in full force and effect.”).

Because a psychiatric evaluation is pending, and Mr. Moussaoui is currently represented by counsel of record, it is respectfully requested that the Court place those filings under seal, ex parte, and withhold any rulings on them pending the Court's determination of whether he should be allowed to proceed *pro se*. It is further requested that any and all of these *pro se* documents be provided only to defense counsel of record. These documents should not be provided to the government at this time, because of the potential for an unintended waiver of other constitutional rights. If it is ultimately decided that Mr. Moussaoui may proceed *pro se*, his then relevant *pro se* pleadings, which comply with the rules of Court, can be filed and copies given to the government for response.

Respectfully submitted,

---

Frank W. Dunham, Jr.  
Federal Public Defender  
Eastern District of Virginia  
1650 King Street, Suite 500  
Alexandria, VA 22314  
(703) 600-0808

---

Edward B. MacMahon, Jr.  
107 East Washington Street  
P.O. Box 903  
Middleburg, VA 20117  
(540) 687-3902

---

Gerald T. Zerk  
Assistant Federal Public Defender  
Eastern District of Virginia  
830 E. Main Street, Suite 1100  
Richmond, VA 23219  
(804) 565-0880

---

Judy Clarke  
Federal Defenders of  
Eastern Washington and Idaho  
10 N. Post, Suite 700  
Spokane, WA 99201  
(703) 600-0855

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Motion and Memorandum to Reconsider the Order of April 26, 2002 Concerning the Filing of *Pro Se* Motions and to Place the *Pro Se* Documents Under Seal and Ex Parte was served via facsimile and first class mail upon AUSA Robert A. Spencer, AUSA David Novak, and AUSA Kenneth Karas, U.S. Attorney's Office, 2100 Jamieson Avenue, Alexandria, Virginia 22314 this 30th day of April, 2002.

---

Frank W. Dunham, Jr.